

Senate File 471

H-1271

1 Amend the Committee amendment, H-1251, to Senate File 471,  
2 as amended, passed, and reprinted by the Senate, as follows:

3 1. Page 1, after line 4 by inserting:

4 <<DIVISION I

5 RIGHTS AND PROTECTIONS BEGINNING AT FETAL HEARTBEAT DETECTION

6 Section 1. NEW SECTION. 1.19 Rights and protections  
7 beginning at fetal heartbeat detection — construction.

8 1. The sovereign state of Iowa recognizes that life is  
9 valued and protected, and each life, from the moment the fetal  
10 heartbeat is detected in accordance with section 146A.1, is  
11 accorded the same rights and protections, including the right  
12 to life, guaranteed to all persons by the Constitution of the  
13 United States, the Constitution of the State of Iowa, and the  
14 laws of this state.

15 2. This section shall not be construed to create or  
16 recognize a right to an abortion, to impose civil or criminal  
17 liability on a woman upon whom an abortion is performed, or to  
18 prohibit the use of any means of contraception.

19 3. Nothing in this section shall be construed to alter  
20 existing provisions of law relating to inheritance, taxation,  
21 or in vitro fertilization.

22 DIVISION \_\_\_\_

23 PREREQUISITES FOR ABORTION

24 Sec. \_\_\_\_ . NEW SECTION. 146A.01 Definitions.

25 As used in this chapter, unless the context otherwise  
26 requires:

27 1. "*Abortion*" means the termination of a human pregnancy  
28 with the intent other than to produce a live birth or to remove  
29 a dead fetus.

30 2. "*Fetal heartbeat*" means cardiac activity, the steady and  
31 repetitive rhythmic contraction of the fetal heart within the  
32 gestational sac.

33 3. "*Major bodily function*" includes but is not limited  
34 to functions of the immune system, normal cell growth, and  
35 digestive, bowel, bladder, neurological, brain, respiratory,

1 circulatory, endocrine, and reproductive functions.

2 4. "*Medical emergency*" means a situation in which an  
3 abortion is performed to preserve the life of the pregnant  
4 woman whose life is endangered by a physical disorder, physical  
5 illness, or physical injury, including a life-endangering  
6 physical condition caused by or arising from the pregnancy, or  
7 when continuation of the pregnancy will create a serious risk  
8 of substantial and irreversible impairment of a major bodily  
9 function of the pregnant woman.

10 5. "*Perform*", "*performed*", or "*performing*", relative to an  
11 abortion, means the use of any means, including medical or  
12 surgical, to terminate the pregnancy of a woman known to be  
13 pregnant with the intent other than to produce a live birth or  
14 to remove a dead fetus.

15 6. "*Unborn child*" means an individual organism of the  
16 species homo sapiens from fertilization to live birth.

17 Sec. \_\_\_\_\_. Section 146A.1, Code 2017, is amended by striking  
18 the section and inserting in lieu thereof the following:

19 **146A.1 Prerequisites for abortion — ultrasound —**  
20 **fetal heartbeat detection testing — licensee discipline —**  
21 **interpretation.**

22 1. A physician performing an abortion shall obtain written  
23 certification from the pregnant woman of all of the following  
24 at least seventy-two hours prior to performing an abortion:

25 a. That the woman has undergone an ultrasound imaging of the  
26 unborn child that displays the approximate age of the fetus.

27 b. That the woman was given the opportunity to see the  
28 unborn child by viewing the ultrasound image of the fetus.

29 c. That the woman was given the option of hearing a  
30 description of the unborn child based on the ultrasound image  
31 and hearing the heartbeat of the fetus.

32 d. (1) That the woman has been provided information  
33 regarding all of the following, based upon the materials  
34 developed by the department of public health pursuant to  
35 subparagraph (2):

1 (a) The options relative to a pregnancy, including  
2 continuing the pregnancy to term and retaining parental rights  
3 following the child's birth, continuing the pregnancy to  
4 term and placing the child for adoption, and terminating the  
5 pregnancy.

6 (b) The indicators, contra-indicators, and risk factors  
7 including any physical, psychological, or situational factors  
8 related to the abortion in light of the woman's medical history  
9 and medical condition.

10 (2) The department of public health shall make available to  
11 physicians, upon request, all of the following information:

12 (a) Geographically indexed materials designed to inform the  
13 woman about public and private agencies and services available  
14 to assist a woman through pregnancy, at the time of childbirth,  
15 and while the child is dependent. The materials shall include  
16 a comprehensive list of the agencies available, categorized by  
17 the type of services offered, and a description of the manner  
18 by which the agency may be contacted.

19 (b) Materials that encourage consideration of placement for  
20 adoption. The materials shall inform the woman of the benefits  
21 of adoption, including the requirements of confidentiality in  
22 the adoption process, the importance of adoption to individuals  
23 and society, and the state's interest in promoting adoption by  
24 preferring adoption over abortion.

25 (c) Materials that contain objective information describing  
26 the methods of abortion procedures commonly used, the medical  
27 risks commonly associated with each such procedure, and the  
28 possible detrimental physical and psychological effects of  
29 abortion.

30 2. A physician shall test, and shall certify in the woman's  
31 medical record the testing of, a pregnant woman as specified  
32 in this subsection, to determine if a fetal heartbeat is  
33 detectable prior to performing an abortion.

34 a. In testing for a detectable fetal heartbeat, the  
35 physician shall perform an abdominal ultrasound, necessary to

1 detect a fetal heartbeat according to standard medical practice  
2 and including the use of medical devices, as determined by  
3 standard medical practice and specified by rule of the board  
4 of medicine.

5     *b.* (1) Following the testing of the pregnant woman for  
6 a detectable fetal heartbeat, the physician shall inform the  
7 pregnant woman, in writing, of all of the following:

8         *(a)* Whether a fetal heartbeat was detected.

9         *(b)* If a fetal heartbeat is detected, the statistical  
10 probability of bringing the pregnancy to term based on the  
11 postfertilization age of the fetus.

12     *c.* Upon receipt of the written information, the pregnant  
13 woman shall sign a form acknowledging that the woman has  
14 received the information as required under this subsection, and  
15 a copy of the signed acknowledgment shall be included in the  
16 woman's medical record.

17     *d.* A physician does not violate this subsection if the  
18 physician does any of the following:

19         (1) Tests the pregnant woman for a detectable fetal  
20 heartbeat utilizing standard medical practice, but the test  
21 does not detect a fetal heartbeat.

22         (2) Relies on information provided by a licensed medical  
23 professional who performed the test to detect a fetal  
24 heartbeat, and the information indicates the test did not  
25 detect a fetal heartbeat.

26     3. Compliance with the prerequisites of this section shall  
27 not apply to any of the following:

28         *a.* An abortion performed to save the life of a pregnant  
29 woman.

30         *b.* An abortion performed in a medical emergency.

31         *c.* The performance of a medical procedure by a physician  
32 that in the physician's reasonable medical judgment is designed  
33 to or intended to prevent the death or to preserve the life of  
34 the pregnant woman.

35     4. A physician who violates this section is subject to

1 licensee discipline pursuant to section 148.6.

2 5. This section shall not be construed to impose civil  
3 or criminal liability on a woman upon whom an abortion is  
4 performed, or to prohibit the sale, use, prescription, or  
5 administration of a measure, drug, or chemical designed for  
6 contraceptive purposes.

7 6. The board of medicine shall adopt rules pursuant to  
8 chapter 17A to administer this section.

9 Sec. \_\_\_\_\_. CODE EDITOR DIRECTIVE.

10 1. The Code editor is directed to make the following  
11 transfers:

12 a. Section 146A.01 to section 146A.1.

13 b. Section 146A.1 to section 146A.2.

14 2. The Code editor shall correct internal references in the  
15 Code and in any enacted legislation as necessary due to the  
16 enactment and implementation of this section.

17 DIVISION \_\_\_\_

18 PROHIBITIONS ON ABORTION — TWENTY WEEKS POSTFERTILIZATION>

19 2. Page 7, by striking lines 3 through 12 and inserting:

20 <DIVISION \_\_\_\_

21 PROHIBITIONS ON ABORTION — FETAL HEARTBEAT DETECTED OR TWENTY  
22 WEEKS POSTFERTILIZATION

23 Sec. \_\_\_\_\_. NEW SECTION. 146C.1 **Definitions.**

24 As used in this chapter, unless the context otherwise  
25 requires:

26 1. "*Abortion*" means the termination of a human pregnancy  
27 with the intent other than to produce a live birth or to remove  
28 a dead fetus.

29 2. "*Attempt to perform an abortion*" means an act, or  
30 an omission of a statutorily required act, that, under the  
31 circumstances as the actor believes them to be, constitutes a  
32 substantial step in a course of conduct planned to culminate in  
33 the performing of an abortion.

34 3. "*Department*" means the department of public health.

35 4. "*Fertilization*" means the fusion of a human spermatozoon

1 with a human ovum.

2 5. "*Fetal heartbeat*" means cardiac activity, the steady and  
3 repetitive rhythmic contraction of the fetal heart within the  
4 gestational sac.

5 6. "*Major bodily function*" includes but is not limited  
6 to functions of the immune system, normal cell growth, and  
7 digestive, bowel, bladder, neurological, brain, respiratory,  
8 circulatory, endocrine, and reproductive functions.

9 7. "*Medical emergency*" means a situation in which an  
10 abortion is performed to preserve the life of the pregnant  
11 woman whose life is endangered by a physical disorder, physical  
12 illness, or physical injury, including a life-endangering  
13 physical condition caused by or arising from the pregnancy, or  
14 when continuation of the pregnancy will create a serious risk  
15 of substantial and irreversible impairment of a major bodily  
16 function of the pregnant woman.

17 8. "*Medical facility*" means any public or private hospital,  
18 clinic, center, medical school, medical training institution,  
19 health care facility, physician's office, infirmary,  
20 dispensary, ambulatory surgical center, or other institution or  
21 location where medical care is provided to any person.

22 9. "*Perform*", "*performed*", or "*performing*", relative to an  
23 abortion, means the use of any means, including medical or  
24 surgical, to terminate the pregnancy of a woman known to be  
25 pregnant with the intent other than to produce a live birth or  
26 to remove a dead fetus.

27 10. "*Physician*" means a person licensed under chapter 148.

28 11. "*Postfertilization age*" means the age of the unborn  
29 child as calculated from fertilization.

30 12. "*Probable postfertilization age*" means what, in  
31 reasonable medical judgment, will with reasonable probability  
32 be the postfertilization age of the unborn child at the time  
33 the abortion is to be performed.

34 13. "*Reasonable medical judgment*" means a medical judgment  
35 made by a reasonably prudent physician who is knowledgeable

1 about the case and the treatment possibilities with respect to  
2 the medical conditions involved.

3 14. "*Unborn child*" means an individual organism of the  
4 species homo sapiens from fertilization until live birth.

5 Sec. \_\_\_\_\_. NEW SECTION. 146C.2 Detection of fetal  
6 heartbeat and determination of postfertilization age — abortion  
7 prohibited at detection of heartbeat or twenty or more weeks  
8 postfertilization age — exceptions — reporting requirements —  
9 penalties.

10 1. Except in the case of a medical emergency, in addition  
11 to compliance with the prerequisites of chapter 146A, an  
12 abortion shall not be performed or be attempted to be performed  
13 unless the physician performing the abortion has first made  
14 a determination of the probable postfertilization age of the  
15 unborn child or relied upon such a determination made by  
16 another physician. In making such a determination, a physician  
17 shall make such inquiries of the pregnant woman and perform or  
18 cause to be performed such medical examinations and tests the  
19 physician considers necessary in making a reasonable medical  
20 judgment to accurately determine the postfertilization age of  
21 the unborn child.

22 2. a. A physician shall not perform or attempt to perform  
23 an abortion upon a pregnant woman when a fetal heartbeat is  
24 detectable pursuant to section 146A.1 or when it has been  
25 determined, by the physician performing the abortion or by  
26 another physician upon whose determination that physician  
27 relies, that the probable postfertilization age of the unborn  
28 child is twenty or more weeks, whichever occurs earlier in  
29 the pregnancy, unless, in the physician's reasonable medical  
30 judgment, any of the following applies:

31 (1) The pregnant woman has a condition which the physician  
32 deems a medical emergency.

33 (2) The abortion is necessary to preserve the life of an  
34 unborn child.

35 b. If an abortion is performed under this subsection, the

1 physician shall terminate the human pregnancy in the manner  
2 which, in the physician's reasonable medical judgment, provides  
3 the best opportunity for an unborn child to survive, unless, in  
4 the physician's reasonable medical judgment, termination of the  
5 human pregnancy in that manner would pose a greater risk than  
6 any other available method of the death of the pregnant woman  
7 or of the substantial and irreversible physical impairment of a  
8 major bodily function. A greater risk shall not be deemed to  
9 exist if it is based on a claim or diagnosis that the pregnant  
10 woman will engage in conduct which would result in the pregnant  
11 woman's death or in substantial and irreversible physical  
12 impairment of a major bodily function.

13 3. A physician who performs or attempts to perform an  
14 abortion shall report to the department, on a schedule and in  
15 accordance with forms and rules adopted by the department, all  
16 of the following:

17 a. Whether a fetal heartbeat was detected pursuant to  
18 section 146A.1.

19 b. If a fetal heartbeat was detected, the basis of the  
20 determination of a medical emergency, or the basis of the  
21 determination that the abortion was necessary to preserve the  
22 life of an unborn child.

23 c. If a determination of probable postfertilization age of  
24 the unborn child was made, the probable postfertilization age  
25 determined and the method and basis of the determination.

26 d. If a determination of probable postfertilization age of  
27 the unborn child was not made, the basis of the determination  
28 that a medical emergency existed.

29 e. If the probable postfertilization age of the unborn  
30 child was determined to be twenty or more weeks, the basis of  
31 the determination of a medical emergency, or the basis of the  
32 determination that the abortion was necessary to preserve the  
33 life of an unborn child.

34 f. The method used for the abortion and, in the case of  
35 an abortion performed when the probable postfertilization age



1 was determined to be twenty or more weeks, whether the method  
2 of abortion used was one that, in the physician's reasonable  
3 medical judgment, provided the best opportunity for an unborn  
4 child to survive or, if such a method was not used, the basis  
5 of the determination that termination of the human pregnancy  
6 in that manner would pose a greater risk than would any other  
7 available method of the death of the pregnant woman or of the  
8 substantial and irreversible physical impairment of a major  
9 bodily function.

10 4. a. By June 30, annually, the department shall issue a  
11 public report providing statistics for the previous calendar  
12 year, compiled from the reports for that year submitted in  
13 accordance with subsection 3. The department shall ensure that  
14 none of the information included in the public reports could  
15 reasonably lead to the identification of any woman upon whom an  
16 abortion was performed.

17 b. (1) A physician who fails to submit a report by the end  
18 of thirty days following the due date shall be subject to a  
19 late fee of five hundred dollars for each additional thirty-day  
20 period or portion of a thirty-day period the report is overdue.

21 (2) A physician required to report in accordance with  
22 subsection 3 who has not submitted a report or who has  
23 submitted only an incomplete report more than one year  
24 following the due date, may, in an action brought in the  
25 manner in which actions are brought to enforce chapter 148,  
26 be directed by a court of competent jurisdiction to submit a  
27 complete report within a time period stated by court order or  
28 be subject to contempt of court.

29 (3) A physician who intentionally or recklessly falsifies  
30 a report required under this section is subject to a civil  
31 penalty of one hundred dollars.

32 5. Any medical facility in which a physician is authorized  
33 to perform an abortion shall implement written medical  
34 policies and procedures consistent with the requirements and  
35 prohibitions of this chapter.

1     6. The department shall adopt rules to implement this  
2 section.

3     Sec. \_\_\_\_\_. NEW SECTION. **146C.3 Civil actions and penalties.**

4     1. Failure of a physician to comply with any provision of  
5 section 146C.2, with the exception of the late filing of a  
6 report or failure to submit a complete report in compliance  
7 with a court order, is grounds for licensee discipline under  
8 chapter 148.

9     2. A woman upon whom an abortion has been performed in  
10 violation of this chapter or the biological father may maintain  
11 an action against the physician who performed the abortion in  
12 intentional or reckless violation of this chapter for actual  
13 damages. This subsection shall not be interpreted to apply to  
14 a biological father when the pregnancy is the result of rape  
15 or incest.

16     3. A woman upon whom an abortion has been attempted in  
17 violation of this chapter may maintain an action against the  
18 physician who attempted the abortion in intentional or reckless  
19 violation of this chapter for actual damages.

20     4. A cause of action for injunctive relief to prevent a  
21 physician from performing abortions may be maintained against  
22 a physician who has intentionally violated this chapter by  
23 the woman upon whom the abortion was performed or attempted,  
24 by the spouse of the woman, by a parent or guardian of the  
25 woman if the woman is less than eighteen years of age at the  
26 time the abortion was performed or attempted, by a current or  
27 former licensed health care provider of the woman, by a county  
28 attorney with appropriate jurisdiction, or by the attorney  
29 general.

30     5. If the plaintiff prevails in an action brought under  
31 this section, the plaintiff shall be entitled to an award for  
32 reasonable attorney fees.

33     6. If the defendant prevails in an action brought under  
34 this section and the court finds that the plaintiff's suit was  
35 frivolous and brought in bad faith, the defendant shall be

1 entitled to an award for reasonable attorney fees.

2 7. Damages and attorney fees shall not be assessed against  
3 the woman upon whom an abortion was performed or attempted  
4 except as provided in subsection 6.

5 8. In a civil proceeding or action brought under this  
6 chapter, the court shall rule whether the anonymity of any  
7 woman upon whom an abortion has been performed or attempted  
8 shall be preserved from public disclosure if the woman does not  
9 provide consent to such disclosure. The court, upon motion  
10 or on its own motion, shall make such a ruling and, upon  
11 determining that the woman's anonymity should be preserved,  
12 shall issue orders to the parties, witnesses, and counsel  
13 and shall direct the sealing of the record and exclusion of  
14 individuals from courtrooms or hearing rooms to the extent  
15 necessary to safeguard the woman's identity from public  
16 disclosure. Each such order shall be accompanied by specific  
17 written findings explaining why the anonymity of the woman  
18 should be preserved from public disclosure, why the order is  
19 essential to that end, how the order is narrowly tailored to  
20 serve that interest, and why no reasonable less restrictive  
21 alternative exists. In the absence of written consent of the  
22 woman upon whom an abortion has been performed or attempted,  
23 anyone, other than a public official, who brings an action  
24 under this section shall do so under a pseudonym. This  
25 subsection shall not be construed to conceal the identity  
26 of the plaintiff or of witnesses from the defendant or from  
27 attorneys for the defendant.

28 9. This chapter shall not be construed to impose civil  
29 or criminal liability on a woman upon whom an abortion is  
30 performed or attempted.

31 Sec. \_\_\_\_ . NEW SECTION. 146C.4 Construction.

32 1. Nothing in this chapter shall be construed as creating or  
33 recognizing a right to an abortion.

34 2. Nothing in this chapter shall be construed as determining  
35 life to begin when a fetal heartbeat is detectable or at twenty

1 weeks' postfertilization. Instead, it is recognized that life  
2 begins at fertilization.

3 DIVISION \_\_\_\_

4 SEVERABILITY — CONTINGENT IMPLEMENTATION — EFFECTIVE DATES

5 Sec. \_\_\_\_\_. SEVERABILITY CLAUSE. If any provision of this Act  
6 or its application to a person or circumstance is held invalid,  
7 the invalidity does not affect other provisions of applications  
8 of this Act which can be given effect without the invalid  
9 provision or application, and to this end the provisions of  
10 this Act are severable.

11 Sec. \_\_\_\_\_. CONTINGENT IMPLEMENTATION. The division of  
12 this Act enacting chapter 146B, relating to twenty weeks  
13 postfertilization relative to the performance of an abortion,  
14 shall be implemented only if the implementation of the division  
15 of this Act enacting chapter 146C, relating to fetal heartbeat  
16 detection or twenty weeks postfertilization relative to the  
17 performance of an abortion, is interrupted for any reason.

18 Sec. \_\_\_\_\_. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
19 of immediate importance, takes effect upon enactment.>

20 3. Title page, by striking lines 1 and 2 and inserting  
21 <An Act relating to limitations on and prerequisites for  
22 an abortion, providing for licensee discipline, providing  
23 civil penalties, providing for contingent implementation, and  
24 including effective date provisions.>>

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SALMON of Black Hawk

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FISHER of Tama

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CARLIN of Woodbury

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HAGER of Allamakee

---

SHEETS of Appanoose

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HEARTSILL of Marion

---

WHEELER of Sioux

---

GASSMAN of Winnebago

---

HOLT of Crawford

---

WATTS of Dallas